

## PART 2045 - General

## Subpart BB - Employee Responsibilities and Conduct

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PART 2045 - GENERAL

SUBPART BB - EMPLOYEE RESPONSIBILITIES AND CONDUCT

§2045.1351 General.

(a) Each Farmers Home Administration (FmHA) employee is required to give faithful service to the public. This specifically includes the requirement that each employee know and observe the rules on employee responsibilities and conduct stated in this Subpart and each of the following Exhibits to this Subpart:

(1) Exhibit A, Employee Responsibilities and Conduct. This provides Part 735 of the Personnel Regulations of the U.S. Department of Agriculture.

(2) Exhibit B, Conflict of Interest. This provides examples of conflicts of interest, which are prohibited by Exhibit A.

(3) Exhibit C, Guides on Sale of Real Estate by Employees. This provides guides for determining situations in which it is permissible for employees to sell personally owned real estate to FmHA applicants and borrowers.

(b) References in this Subpart to sections in Part 735 may appear in parentheses.

(c) Exhibit A provides for a counseling service (735-3). This Subpart accomplishes that objective. Each employee is responsible for seeking needed clarification of sections of this Subpart either from his/her supervisor (735-6) or from the appropriate Agency Assistant Deputy Counselor (See Section 2045.1356 of this Subpart).

(d) This Subpart is not to be construed as all-inclusive. Employees also are subject to:

(1) Federal statutes;

(2) Other RD Instructions;

(3) USDA Administrative Regulations; and

(4) Regulations of outside authority, including but not limited to the Office of Personnel Management and the General Services Administration.

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DISTRIBUTION: W, S, D, C and all Employees  
including County Committeemembers

Personnel  
General

(e) Supervisors have the additional responsibilities stated in Exhibit A (735-6).

(f) Violation of any provision of this Subpart and/or any other regulation or procedure may result in consideration for disciplinary or adverse action.

§2045.1352 Definitions.

(a) "Appearance of a conflict of interest" is defined in Section 735-2(d).

(b) "Applicant or borrower" includes all persons or organizations, individually or collectively, applying for or receiving loan or grant financial assistance from or through FmHA. Voluntary membership in a utility or public facility-type organization is not considered as being an applicant or borrower.

(c) "Approving official" unless an exception is made, is the Director, Personnel Division, for National Office employees, State Directors for employees under their jurisdictions, and Director, Finance Office, for Finance Office employees.

(d) "Assistance" includes grants and any loans made, insured, or guaranteed by FmHA.

(e) "Conflict of interest" is defined in Section 735-2(c).

(f) "Close relatives" means the spouse and relatives of an employee or the spouse of the employee including:

Grandfather	Grandmother	Uncle
Father	Mother	Aunt
Brother	Sister	Nephew
Son	Daughter	Niece
Grandson	Granddaughter	First cousin

Includes also the above individuals with the "step" relationship (for example, "step-father," "step-brother," and others).

(g) "Employee" includes all FmHA personnel, including County or Area Committeemembers except as otherwise specifically stated.

(h) "Gratuitous Employee" includes Comprehensive Employment and Training Act (CETA) enrollees and any other individuals working in FmHA

## § 2045.1352(h) (Con.)

offices on an official basis without being paid wages through Rural Development. For purposes of this Subpart, "gratuitous employees" are considered as "employees" unless otherwise stated.

(i) "Members of family" is defined in Section 735-2 ( i).

(j) "Outside employment or activity" is defined in Section 835-2 (h). It includes, but is not limited to, a work or activity performed in exchange for other work, activity, goods, or commodities.

(k) "Special Government employees" is defined in Section 735-2 (f). (Revised 10-06-99, PN 311).

(l) "Speculation" includes buying and selling on a short term basis with the intent to profit.

§ 2045.1353 General or specialized farm organizations .

(a) Exhibit A of this Instruction, Section 735-21 (a) puts restrictions on employee activities with regard to farm organizations.

(b) Exhibit A of this Instruction, Section 735-21 (b)(1) gives County Committee members exemption from Section 735-21 (a), but they must not show favoritism to a particular farm organization.

§ 2045.1354 Safeguarding information .

Refer to RD Instruction 2018-F and Section 735-20 for guidance on releasing information from Rural Development records.

§ 2045.1355 Miscellaneous provisions .

(a) Reporting misconduct .

(1) Each employee is required to report the misconduct of another employee. Failure to report misconduct will result in consideration for disciplinary or adverse action. (See § 2045.1355(n) of this Instruction and § 2012.53(d) of RD Instruction 2012-B, with respect to reporting bribes or attempted bribes.) (Revised 10-06-99, PN 311.)

(2) The Office of the Inspector General, USDA, receives and investigates complaints or information from employees concerning the possible existence of any activity constituting a violation of law, rules, or regulations, or mismanagement, gross waste of funds, abuse of authority or substantial and specific danger to the public health and safety. The Inspector General does not disclose the identity of a complaining employee without the employee's consent; unless such disclosure is unavoidable during the course of an investigation. (See § 2012.64 of RD Instruction 2012-B.) Whistleblower complaints may be made as follows: (Revised 03-16-94, PN 220.)

(i) In writing to the Office of the Inspector General, P.O. Box 23399, Washington, D.C. 20026. Complaints need not be signed.

(ii) By telephone to toll free number 1-800-424-9121 for field employees; Washington, D.C., area employees call (202)690-1622. (Revised 03-16-94, PN 220.)

(b) Nondiscrimination. Disciplinary action will be proposed against employees who practice discrimination, or who are aware of discrimination and do not make a report of it.

(1) Program discrimination. There will be no discrimination in FmHA programs. Send reports of any discrimination to the Administrator, Attention: Equal Opportunity Officer.

(2) Federally financed construction contracts. Equal employment opportunity is mandatory on such projects. If a contractor with a contract over \$10,000 given Rural Development financing (in whole or in part) has discriminatory practices, Rural Development employees must make a report to the Administrator, Attention: Equal Opportunity Officer.

(3) Equal Employment Opportunity. There can be no discrimination in Federal employment, before or after employment. Send reports of any discrimination to the Administrator, Attention: Equal Employment Opportunity Coordinator.

(c) Courtesy. Employees must be courteous to the public, and to other employees. The Civil Service Reform Act of 1978 provides that an employee may be suspended for 15 days or less for discourteous conduct to the public confirmed by an immediate supervisor's report of four such instances within any one-year period or any other pattern of discourteous conduct.

§2045.1355 (Con.)

(d) Judicial proceedings .

(1) In any court action in which the United States is a party, employees cannot give voluntary testimony, except for the U.S. or themselves. Inform supervisors about any subpoena (see FmHA Instruction 2066-A). Information is released in accordance with RD Instruction 2018-F. (Revised 8-7-85, PN 974.)

(1-28-81) PN 763



§2045.1355 (d) (Con.)

(2) If an employee becomes the object of a civil suit in connection with official duties:

(i) Notify the Regional Attorney of the Office of the General Counsel (OGC), USDA, through the State Director.

(ii) If only the employee is named, obtain through the State Director, the Regional Attorney's advice on how to write letters requesting Justice Department representation.

(iii) Make sure the Regional Attorney and State Director take action.

(iv) The Government pays any judgments against both the employee and the Federal Government.

(v) The employee is responsible for any judgment against the employee only.

(e) Safety and health. Each employee is responsible for safe performance of duties. Supervisors must make sure that working conditions are safe. Violations of RD Instruction 2069-A are misconduct. Employees doing official duties after hours are counted as on duty.

(f) Purchase of FmHA-financed property (real or personal) in Government inventory; or purchase of FmHA-mortgaged property (real or personal) on which foreclosure action has been initiated or taken by the Government; or FmHA-financed property (real or personal) being sold at foreclosure. The purchase of all such property by FmHA employees or members of family of employees (except County Committeemembers and their close relatives) is prohibited, except that this prohibition does not apply when preservation loan servicing rights are being exercised under RD Instruction 1951-S. This prohibition includes the acquisition of such property through the actions of a third party. (Revised 02-04-93, SPECIAL PN.)

(g) Sale of real estate to FmHA applicants or borrowers.

(1) No employee knowingly can sell, directly or indirectly, personal real estate to an FmHA applicant or borrower, or act as an agent for a close relative doing so. Exceptions: see §2045.1355 (g)(2) and (4) below.

(2) The approving official can give an exception to §2045.1355 (g)(1) for a noncommitteemember employee, if it is shown that:

(i) The sale is in the applicant's or borrower's best interests. The approval official must show the applicant's or borrower's name and the reasons why the sale is in that person's best interests.

(ii) Denial of the exception can cause hardship to the applicant, borrower, or employee.

(iii) There is no favoritism, duress, or improper advantage.

(iv) The approval official has made all of these determinations before the sale. The reasons become part of the loan docket and also are filed on the temporary side of the Official Personnel Folder for the employee making the sale.

(3) Post-approval is not given for an employee's sale to a person, group of persons, or entity whom the employee knew to be applicant or borrower. Instead, disciplinary action may be proposed against the seller and those who knew of the sale.

(4) Exceptions may be given for Committeemembers to the subject restrictions of §2045.1355 (g)(1) if the transaction is in compliance with §2045.1355 (g)(2)( i) and (iii) through (v).

(5) Exhibit C applies in determining that the requirements of §2045.1355 (g)(2) and (4) have been met.

(6) An exception is not given if the employee uses information obtained through employment in order to find a buyer.

(7) Under §2045.1355 (g)(2), the Director, Personnel Division, may grant an exception to §2045.1355 (g)(1) to State Directors or the Assistant Administrator, Finance Office.

(h) FmHA assistance to employee, member of family of employee, close relative or business or close personal associate. (Revised 02-04-93, SPECIAL PN.)

(1) Employees (not including County Committee members) and members of families of employees are not eligible for FmHA assistance, except as provided in §1944.39 of RD Instruction 1944-A for Section 502 loans. This prohibition applies to the individual, to a group of which the individual is a member, or to an entity of any kind in which the individual has a financial interest.

(2) Processing and Servicing FmHA assistance to employees (including County Committee members and closing agents) members of their families, close relatives and business or close personal associates is subject to the provisions of RD Instruction 1900-D.

§2045.1355 (Con.)

(i) Business or personal transactions between employees (not including committeemembers) and FmHA applicants/borrowers or persons having or seeking business with FmHA . (Renumbered 02-04-93, SPECIAL PN.)

(1) Gifts, gratuities, entertainment, and favors, (735-12c): Employees cannot solicit or receive from applicants, borrowers, or persons with actual or potential business with FmHA any items of more than nominal value. Invitations to hunting or fishing trips, bottles or cans of alcoholic beverages, free transportation, etc. Employees can be present at functions open to the public.

(2) Except as given in §2045.1355 ( i)(3), employees cannot get into, or try to get into, business or personal transactions with FmHA applicants, borrowers, or business contacts (not including banks, etc., at which the employee gets treatment as any other customer). This prohibition includes: (Revised 02-04-93, SPECIAL PN.)

(i) Purchase of real or personal property mortgaged or pledged to the Government through or by FmHA.

(ii) Hiring of an applicant, borrower, or business contact for the benefit of the employee or the employee's member of family; or being hired by an applicant, borrower, or business contact.

(iii) Taking of credit from FmHA-financed cooperative associations.

(iv) Taking of a lease on a farm from a or business contact for the benefit of the employee or the employee's member of family; or being hired by an applicant, borrower, or business contact.

(v) Making a lease on a farm to a borrower or business contact.

(vi) Getting into any long-term contractual business relationship with an applicant, borrower, or business contact.

(3) Except as provided in 2045.1355 ( i)(4) an approving official may grant a written exception to 2045.1355 ( i)(2)(i) through (v)

if the transaction: (a) involves no duress or favoritism and (b) the approving official finds the transaction to be in the applicant's or borrower's interest. The following additional conditions must be met prior to the approving official granting the written exception: (Revised 02-04-93, SPECIAL PN.)

(i) The employee must apply in advance and in writing for the exception.

(ii) The employee must furnish adequate written justification for the exception.

(4) No exception is given for a long-term contractual relationship. Generally, long-term is defined as exceeding one calendar year. This restriction may not be circumvented by the use of a series of one-year agreements or contracts.

(5) Employees can buy goods and services from FmHA applicants or borrowers when the goods and services are made available to the general public by the applicants or borrowers at identical prices and terms. Examples include, but are not limited to, service stations, grocery stores, and cafes. The employee must insure the relationship is proper and no advantage is received.

(6) Employee's members of family cannot get into transactions with FmHA borrowers or applicants by coercion or on behalf of employees, or if the borrowers or applicants have a fear of causing ill will if they do not.

(7) The provisions of §2045.1355 ( i) apply when a person involved in a long-term continuing relationship with an FmHA employee first applies for an FmHA loan. (Revised 02-04-93, SPECIAL PN.)

(j) Participation by employee in FmHA-financed organizations.  
(Renumbered 02-04-93, SPECIAL PN.)

(1) With prior approval of the approving official, employees may participate as members of FmHA-financed water or sewer systems (735-23(e)). Employees specifically are permitted the use or benefit without prior approval of the approving official of FmHA-financed community facilities including, but not limited to, fire-fighting organizations, hospitals, and libraries. Employees also may utilize the services of motels financed by FmHA.

(2) Employees and committeemembers cannot do any of these for an FmHA-financed association or organization; be an official; perform any business function; provide clerical services; keep

§2045.1355 (j)(2) (Con.)

records; make reports, or develop operating budgets. FmHA employees can give training to members of FmHA-financed associations or organizations to protect the Government's interests.

(3) Employees and County Committee members cannot be members of grazing associations, nonincorporated Economic Opportunity (EO) Cooperatives, or for-profit rental housing groups and closely held labor housing organizations, but can be members of other organizations. (Revised 02-04-93, SPECIAL PN.)

(4) No County Committee members can take official action on FmHA financial assistance to organizations and associations in which they are members, except with respect to facilities that will have effect on all Committee members and alternates in the area. The County Supervisor sends a statement to the State Director about such interests. The State Director can authorize the Committee members to take action if the interest is not so substantial as to be deemed likely to affect the integrity of certifications or recommendations by the Committee members. (Revised 02-04-93, SPECIAL PN.)

(5) Only with the State Director's prior approval can employers be members of other organizations or associations that receive or apply for FmHA financial assistance. Approval is given only if the employee's financial interest in the group is too remote or inconsequential to affect the integrity of the employee's service.

(k) County or Area Committee actions and certifications . (Renumbered 02-04-93, SPECIAL PN.)

(1) A Committee member cannot be part of any FmHA action for which he or she must furnish a certification or recommendation on (1) a loan to buy any property in which self, spouse, a close relative or business partner has or will get any interest, or (2) any applicant or borrower who is a close relative or business partner of self or spouse. (Section 336 of the Consolidated Farm and Rural Development Act, as amended)

(2) If a Committee member becomes involved as in §2045.1355 (k)(1), the County Supervisor must insure the Committee member does not take part in related Committee action. The other members take the action. Real estate transactions in which a Committee member has an interest have the restrictions of §2045.1355 (g). (Revised 02-04-93, SPECIAL PN.)

(1) Business or personal transactions between County Committee members and FmHA borrowers . Business transactions between Committee members and borrowers in which the Committee members receive an advantage over others because of their positions are not allowed. Transactions seen as questionable require the County Supervisor's approval. Transactions involving real estate, when a Committee member has an interest, have the restrictions of §2045.1355 (g). (Renumbered 02-04-93, SPECIAL PN.)

(m) Miscellaneous statutory provisions . (Renumbered 02-04-93, SPECIAL PN.)

(1) Striking (Sections 735-24 (a) (5)) . Employees cannot take part in any strikes against the Government, any of its agencies, or any wholly owned Government corporation.

(2) Fraud or false statements in Government matters (735-24 (a) (46)) . "Falsifying" includes withholding or destroying information involving a Government matter. Employees can be prosecuted for: (1) making false statements in any official document; (2) withholding material facts; or (3) using a document known to include false information. That which is prohibited by law also is prohibited by this Instruction. False or fraudulent statements include, but are not limited to, the following:

(i) Loan dockets. An employee may not knowingly make or use false statements in an applicant's or borrower's records, including (among others) loan documents and receipts for loan payments.

(ii) Administrative records. Making false entries in FmHA administrative records concerned with the administration of public business.

(iii) Travel vouchers. False odometer readings, arrival and departure times, and claims for expenses. Keep careful records.

(iv) Committee certifications. Approval officials must not falsely sign vouchers having statements that properly written Committee certifications have been obtained when, in fact, they have not been obtained; or use documents signed in blank by Committeemembers; or sign any Committeemember's name to a document.

§2045.1355 (Con.)

(n) Reporting bribes or attempted bribery . Each employee is required to report bribes or attempted bribes directly to the 24-HOUR DIRECT OFFICE OF INSPECTOR GENERAL (OIG) BRIBERY HOTLINE available by calling (202) 720-7257, in accordance with §2012.53 (c) of RD Instruction 2012-B). (Revised 03-16-94, PN 220.)

§2045.1355 (Con.)

(o) Cooperation with investigators (735-23(c)) . (Renumbered 02-04-93, SPECIAL PN.)

Each employee is required to furnish sworn statements to authorized representatives of the Department except when invoking the protection of the Fifth Amendment to the Constitution with respect to self-incrimination in a criminal matter. The employee has the right to review, to have his/her representative review, to amend, and to receive a copy of the signed statement, upon request.

(p) Acquiring land after reviewing or acting on an application for such land. (Renumbered 02-04-93, SPECIAL PN.)

(1) Employees, including County Committeemembers, who have acted on or reviewed an application from a person to purchase land, are prohibited from acquiring, either directly or indirectly, any interest in such land for a period of 3 years after the date of the application review.

(2) The Administrator may grant an exception for a former member of the County Committee to make such a purchase, provided the request is made in advance; and provided the former member submits clear and convincing evidence that he/she acted in good faith in working with the loan application. The request for an exception will be made through the State Director to the Administrator. The State Director must provide recommendations to the Administrator when an exception is requested.

§2045.1356 Counseling and Advisory Service (735-3); Designation of Agency and Assistant Agency Deputy Counselor .

The designated Agency Deputy Counselor is the Administrator. Designated Agency Assistant Deputy Counselors are: the Associate Administrator; State Directors; Director, Finance Office; Director, Personnel Division; and Chief, Employee Relations Branch. An employee may ask the Agency Deputy (or Agency Assistant Deputy) Counselor for advice about conduct regulations.

§2045.1357 Approval levels for Purchase of Products or Receipt of Services from Persons, Firms, or Establishments for which Employees Conduct Regulatory Activities (735-23(e)) .

State Directors for employees in states; the Director, Finance office; and the Director, Personnel Division, for employees in the National Office, will serve as approval officials for granting approval for employees to purchase products or receive services as covered by Section 735-23 (e). Each transaction must be individually approved.



§2045.1358 Outside employment and activities (735-13) .

Section 735-13 includes the basic outside employment and activities regulations of the Department of Agriculture.

§2045.1359 Conflicts of interest (735-14) .

Section 735-14 includes the basic conflict of interest regulations of the Department of Agriculture.

§2045.1360 Executive Branch Personnel Confidential Financial Disclosure Report. (Revised 09-22-93, PN 213.)

RD Instruction 2045-EE tells who must complete Standard Form (SF)-450, "Executive Branch Personnel Confidential Financial Disclosure Reports," and how to provide them.

(a) Special Government Employees exceptions .

(1) Under RD Instruction 2045-EE, County Committee members do not have to complete SF-450.

(2) Other Special Government Employees do not have to complete SF-450 unless:

(i) The employee is a consultant or expert, as defined in Chapter 304 of the Federal Personnel Manual, or

(ii) The employee is in a position listed in RD Instruction 2045-EE in which a report is required of a regular Government employee.

(b) Review of designation of position. An employee may obtain review, through the grievance procedure in DPM Chapter 771, of the determination that the employee's position requires filing the SF-450.

(c) Procedures. See RD Instruction 2045-EE on submission of the SF-450.

(d) Custody and review. See RD Instruction 2045-EE on custody and review of the SF-450.

(1) Officials designated to receive, keep, and review the SF-450s are: State Directors; the Assistant Administrator, Finance Office; and the Chief, Employee Relations Branch (ERB), Personnel and Employee Relations Staff (PERS) for employees under their jurisdiction. The Chief, Administrative Programs, and Human Resource Managers/Personnel Management Specialists can provide assistance to State Directors. In the Finance Office the Personnel Officer and Employee Relations Specialists can provide assistance to the Assistant Administrator, Finance Office. In the National Office the reviewers are the Chief, ERB, PERS or his/her designee. Employee Relations Specialists can provide assistance.

(2) If the State Directors or the Assistant Administrator, Finance Office cannot decide whether there is a conflict, the SF-450 must be sent to the Chief, ERB, PERS for review and final determination.

§2045.1361 Reporting gifts received from foreign governments (735-12 (e)) .

Employees who receive gifts from foreign governments or their representatives, including travel or travel expenses, must furnish a copy of the report required by Exhibit A, Part 735-12 (e)(4), to the Chief, ERB, PERS. Any gifts received in November or December of one calendar year must be reported by January 15 of the following calendar year; otherwise, the 60 calendar day time limit for reporting applies. The Chief, ERB, PERS will report all gifts from foreign governments to the Office of Personnel, USDA. (Added 7-21-82, PN 840.)

§§2045.1362 - 2045.1400 [Reserved]

Attachments: Exhibits A, B, and C

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Exhibit A not automated see manual

CONFLICT OF INTEREST

I. INTRODUCTION .

Conflicts of interest, or the appearance of such, can destroy public confidence in the Government, and can make employees subject to criminal prosecution, fiscal charges and/or adverse action.

II. PURPOSE .

Conflict of interest regulations are in Exhibit A of this Instruction. This Exhibit gives examples. The examples are not all-inclusive. This Exhibit in its entirety applies to National and State Office employees, and Paragraph V B 1 applies to Finance Office employees. The Director, Finance Office, will apply to his or her employees such other parts of this Exhibit as, in his or her discretion, he or she deems appropriate.

III. RESPONSIBILITY OF EMPLOYEES .

Employees must avoid conflict and the appearance of conflict in outside activity, employment or financial interest involving self or members of family.

IV. DEFINITIONS .

Terms are defined in Section 2045.1352 of RD Instruction 2045-BB.

V. OUTSIDE EMPLOYMENT, ACTIVITIES AND FINANCIAL INTEREST .

A Prohibited Outside Employment or Activity . Any employment or activity not compatible with the full and proper discharge of the employee's FmHA duties. Self-employment or activity and employment or activity for another person or entity is prohibited if it is not compatible.

Examples include but are not limited to the following:

1. Making sales, appraisals or assessments of real estate.
2. Being a real estate broker, title attorney or title insurance representative
3. Construction of houses or other buildings.

4. Working for individuals or firms doing business with FmHA on a recurring basis (including but not limited to lumber or building suppliers, farm implement dealers, packagers, contractors and feed or fertilizer suppliers).
  5. Being on the board of directors of a bank or savings and loan association that does business within the employee's jurisdictional area.
  6. Working for applicants or borrowers without prior written approval as in §2045.1355 (j) (3).
  7. Sales of insurance of any kind.
  8. Getting into any employment in violation of RD Instruction 2045-BB. Exhibit A, Section 735-13.
  9. Land speculation (as an individual, business, or personal entity of any kind).
- B. Prohibited Financial Interests . Any direct or indirect financial interest that is or can be seen to be, in substantial conflict with an employee's responsibilities.
1. Purchase of FmHA-guaranteed loan paper is prohibited under any and all circumstances.
  2. The following are prohibited if they occur within the geographic jurisdictional area of the employee:
    - a Real estate companies
    - b Title or abstract companies
    - c House or building construction companies, or companies subcontracting part or all of such construction.
    - d Building supply companies and lumberyards.
    - e Feed and fertilizer suppliers.
    - f Bulk gasoline suppliers.
    - g Insurance companies.
    - h Land speculation.

C Prohibited Outside Activities . Activities which violate RD Instruction 2045-BB and 2045-CC, including but not limited to service on the governing body of an FmHA-financed activity; or service on a local political body having authority to tax or to zone property in the area served by the employee in his official, FmHA duties.

D General Prohibition . No employee can hold, help in the operation of, or have a significant interest in, a business or activity with direct dealings with FmHA, or one that sells repeatedly to FmHA borrowers or contractors for payment from FmHA loan funds.

E Interest of Relatives . Each employee must examine the employment, activity and financial interest of a member of family. These activities are the same as if done by the employee. The FmHA duties are crucial in the determination of conflict of interest. Examples of noncompatible employment of members of family include but are not limited to:

1 Working as, or for, a packager doing business with FmHA in the area served by the employee.

2 Working as, or for, a contractor, who gets recurring business from FmHA in the area served by the employee.

F Serving on Boards of Directors of Banks and Savings and Loans . An employee or member of family of an employee may not serve on the board of directors of a bank or savings and loan association in the geographic jurisdictional area of the employee.

G Obtaining and Holding Real Estate Licenses .

The employee can have a real estate license, but not sell real estate commercially. The license can be obtained and kept only with the approving official's prior written consent, and under these conditions.

1 The employee's request for the approving official's prior written consent must inform the approving official of all relevant conditions, including but not limited to the following:

a. Identity of the sponsoring broker, with a complete, accurate delineation of the area in which the broker performs business.

b. Requirements of State law and/or regulation for posting of the real estate license. The employee must specify, in detail, where the license will be posted. (If the license must be posted in a place of business in public view, it cannot be posted in the office of a broker who deals in FmHA-financed properties in the geographic jurisdictional area of the employee).

2 The approving official may, at his/her discretion, impose such restrictions on the holding and/or posting of a real estate license as he or she deems appropriate.

3 An employee cannot select or accept another employee's assistance in finding a sponsor. (The employee doing the solicitation could appear indebted to the sponsor).

4. These restrictions will be reviewed with any employee who is trying to get a real estate license. The employee gives a signed statement that the employee:

a. Understands and agrees to the restrictions; and

b. Understands that commercial selling of real estate during FmHA employment is not allowed.

5. The employee may not utilize the real estate license to sell property he or she owns personally.

#### VI RESOLVING CONFLICTS.

A "Appearance of a Conflict" - When a State Director or other appropriate official decides on the basis of available evidence that an employee has unknowingly become involved in a situation creating the appearance of a conflict of interest, he/she will order the employee to divest himself/ herself of the interest. If the employee complies with the order, the State Director or other appropriate official will note the compliance with a warning to the employee not to become similarly involved in other situations. If the employee refuses to comply, the State Director or other appropriate official will consider appropriate disciplinary or adverse action. If the employee subsequently becomes involved again in a similar appearance of a conflict of interest, he/she will be ordered to divest himself/herself of the interest; and the State Director or other appropriate official will consider appropriate disciplinary or adverse action.

B "Conflict of Interest" - The State Director or other appropriate official will order the employee to divest himself/herself of the interest and will consider appropriate disciplinary or adverse action.

C Conflict or Appearance of Conflict Created by Activities of Members of Family or Business Associates -

1 The members of family or business associates will be asked to divest themselves of the interest creating the conflict or appearance of conflict.

2 The State Director or other appropriate official may restrict the employee's official actions if no harm is done to FmHA efficiency of operations.

3 The State Director or other appropriate official may remove employee from the source of conflict by:

- a Reassigning the employee to another position or geographic area.
- b Accepting the employee's resignation.
- c Removing the employee.

VII FORMER EMPLOYEES

A RD Instruction 2045-BB, Exhibit A, Section 735-14 (a) (5) and (6) state the restrictions applicable to all former employees. A former employee can act as representative for an applicant or borrower in a matter in which the employee:

- 1 Was not a personal and substantial participant, or
- 2 Did not have any official responsibility during the last year of FmHA employment.

B Information obtained as a result of FmHA employment and which is not generally available to the public during FmHA employment cannot be used later as an aid to private business. For example, a former employee cannot contact FmHA applicants or borrowers whose names he or she obtained while employed by FmHA to get customers.

VIII POLITICAL ACTIVITY BY EMPLOYEES .

RD Instruction 2045-BB, Exhibit A, Part 735-19, and RD Instruction 2045-CC, tell what political activity is allowed for employees. Political activity which is otherwise permitted, but which creates a conflict with the employees' duties, is prohibited.

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GUIDES ON SALE OF REAL ESTATE BY EMPLOYEES

Approving officials must give consideration to these guidelines in making determinations under §2045.1355 (h) (2) for the sale of real estate by employees to FmHA applicants and borrowers:

- 1 Availability to the applicant or borrower of other comparable local housing.
- 2 Availability of other than FmHA credit that the applicant or borrower can use to buy the employee's property.
- 3 If the employee is selling in order to buy a residence at a new duty station.
- 4 If the sale price is greater than the local present market value, approval is not given. "Recommended market value" on the appraisal form is the "present market value." The option price cannot be greater than this value. An employee not subordinate to the seller makes the appraisal.
- 5 As the employee's position becomes higher, the approval officer must be more restrictive, as potential for conflict gets greater with increases in authority.
- 6 Give consideration to the method used by the employee to sell the property. Is the property listed with a realtor, or was the sale contract private? The applicant or borrower can feel duress to buy from the employee in order to get a loan.
- 7 Giving the exception in §2045.1355 (h) (2) is not "approval." All program procedures and conditions must be met prior to loan approval.

These guidelines are not all inclusive, and each case is individual. FmHA loan programs are for the benefit of borrowers, not employees. The approving official must use good judgment, and be aware of circumstances and of the effects of public opinion.

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